



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,742	01/05/2004	Michael K. Au	CA920030049US1 (292)	3098
46320 7590 05/17/2011 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 2022 BOCA RATON, FL 33487				
EXAMINER ZURITA, JAMES II				
ART UNIT 3625		PAPER NUMBER		
MAIL DATE 05/17/2011		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/751,742

**Applicant(s)**

AU ET AL.

**Examiner**

JAMES ZURITA

**Art Unit**

3625

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 04/04/2011 has been entered.

### ***Response to Amendment***

On 04/04/2011, Applicant amended claims 1, 7, 13 and 19.

Claims 1-20 are pending and will be examined.

### ***Response to Arguments***

Applicant's arguments filed 04/04/2011 have been fully considered.

Applicant states,

In response, Applicants have amended claims 1, 7, 13 and 19 to expressly indicate that the aggregated catalog is separate from the supplier catalogs.

At page 4 of the Decision, the Honorable Board declined as had Examiner to address arguments directed to the deficiencies of Haynes based upon the limitation of "the supplier catalog, which is separate from the aggregated catalog [applicant's Fig. 1, ref. 30, Fig. 5, ref. 300]" because Examiner and the Honorable Board determined that so much had not been claimed by Applicants in claims 1, 7, 13 and 19. Accordingly, Applicants present herein amendments to claims 1, 7, 13 and 19 consistent with "the supplier catalog, which is separate from the aggregated catalog [applicant's Fig. 1, ref. 30, Fig. 5, ref. 300]".

In response, the Examiner notes that Applicant seems to refer to page 9 of the Board's decision, which states [emphasis and space added]:

Turning to the Appellants' second argument, the Appellants argue that Haynes does not describe that "a user is able to access a supplier catalog, **which is separate from the aggregated catalog** [applicant's Fig. 1, ref. 30, Fig. 5, ref. 300]." App. Br. 15.

However, claim 1 does not require that the supplier catalog is separate from the aggregated catalog as the Appellants seem to argue (Id.)

Claim 1 states "providing a buyer with access to said aggregated catalog and separate access to at least one of said plurality of supplier catalogs on said commerce site." (Emphasis added.)

It is the "access" that is separate and not the catalogs. "

Thus, the Board found that access is separate. The following rejection shows that supplier catalogs are also separate from the aggregated catalog.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the supplier catalogs must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the

Art Unit: 3625

remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-3, 6-9, 12-15, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Haynes (US 2006/0218052 A1).**

"...aggregated catalog..." is applicant's Fig. 1, ref. 30, Fig. 5, ref. 300. It is equivalent to Haynes "...data warehouse [Fig. 1] 36..."

"...supplier catalog..." is not identified in applicant's specifications. In Haynes, see, e.g. references to supplier catalogs stored at a database of vendor 14, Fig. 1 via external system 48, described in Haynes, para 0056.

As per claim 1, Haynes discloses method(s) of creating a marketplace with hosted supplier stores comprising the steps of:

providing tools for creating and managing a hosted supplier store to each of a plurality of suppliers through a commerce site, said tools including a catalog facility for uploading and managing a supplier catalog for said hosted supplier store (e.g., Haynes: abstract and figure 1);

receiving a plurality of supplier catalogs from said plurality of suppliers (e.g., Haynes: para 18);

aggregating said plurality of supplier catalogs into an aggregated catalog (e.g., Haynes: para 18) that is separate from the plurality of supplier catalogs (e.g. Haynes, supplier/vendor catalogs are stored at a database of vendor 14, and accessed via external system 48, described in Haynes, para 0056, 0052); and

providing a buyer with access to said aggregated catalog and separate access to at least one of said plurality of supplier catalogs that is separate from the aggregated catalog on said commerce site (e.g. Haynes: paras 17-18 and para 47, "...such an interface permits a buyer to search a catalogue of products and/or services of a particular supplier..." and supplier/vendor catalogs are stored at a database of vendor 14, and accessed via external system 48, described in Haynes, para 0056, 0052);

As per claim 2, Haynes discloses

providing a supplier hub catalog topology (e.g., Haynes: figure 1 and para 89); and

wherein said step of aggregating includes aggregating said supplier catalogs according to said supplier hub catalog topology (e.g., Haynes: para 89).

As per claim 3. Haynes further discloses a method wherein:

Said supplier catalogs include shared marketplace products and supplier specific products (e.g., Haynes: paras 89-90);

Said buyer access said aggregated catalog through one of said hosted supplier stores owned by one of said suppliers (e.g., Haynes: para 48); and

Said step of aggregating includes aggregating said shared marketplace products from all of said suppliers with said supplier specific products from said one of said suppliers (e.g., Haynes: abstract and para 18).

As per claim 6. Haynes discloses

providing said buyer with trading mechanisms for generating orders for items within said aggregated catalog (e.g., Haynes: para 48);

developing requests for quotations for made-to-order items (e.g., Haynes: para 59); and

negotiating contracts between said suppliers and said buyers (e.g., Haynes: para 113). The examiner notes that an agreement is the same as a contract between suppliers and buyers.

As per claims 7-9, 12-15, and 18-19 Hayes discloses systems and mediums containing instructions with limitations similar to those cited in the rejection of method claims 1-3 and 6:

Claim 7 is rejected on the same grounds as claim 1.

Art Unit: 3625

Claim 8 is rejected on the same grounds as claim 2.  
Claim 9 is rejected on the same grounds as claim 3.  
Claim 12 is rejected on the same grounds as claim 6.  
Claim 13 is rejected on the same grounds as claim 1.  
Claim 14 is rejected on the same grounds as claim 2.  
Claim 15 is rejected on the same grounds as claim 3.  
Claim 18 is rejected on the same grounds as claim 6.  
Claim 19 is rejected on the same grounds as claim 1.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 4-5, 10-11, 16-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes (US 2006/0218052 A1) in view of Flaxer (US 2003/0033218 A1)**

As per claims 4 and 5, Haynes does not expressly disclose

(claim 4)  
receiving contract data from one of said suppliers, said contract data including entitlement information for said buyer in relation to a product; and wherein the step of providing said buyer with access includes filtering said aggregated catalog based upon said entitlement information.

(Claim 5)  
receiving a buyer request for said product; and wherein said step of filtering includes identifying hosted supplier stores offering said product, identifying eligible contracts within said identified hosted supplier stores, retrieving entitlement information from said eligible contracts, and applying said retrieved entitlement information, wherein said entitlement information includes pricing.

Flaxer discloses defining customizable subsets of a catalog including:

Claim 4:

- Receiving contract data from one of said suppliers, said contract data including entitlement information for said buyer in relation to a product (Flaxer: abstract and para 8); and



Art Unit: 3625

- Wherein the step of providing said buyer with access includes filtering said aggregated catalog based upon said entitlement information (Flaxer: para 8).

Claim 5:

- Receiving a buyer request for said product (Flaxer: abstract); and
- Wherein said step of filtering includes identifying hosted supplier stores offering said product, identifying eligible contracts within said identified hosted supplier stores, retrieving entitlement information from said eligible contracts, and applying said retrieved entitlement information, wherein said entitlement information includes pricing (Flaxer: para 8).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Haynes to have included entitlement information for buyers including pricing, as taught by Flaxer. One of ordinary skill in the art would have been motivated to combine Haynes and Flaxer to allow for personalized pricing by the vendor for the obvious reason of maximizing profit (Flaxer: abstract).

In addition, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Haynes to have included

(claim 4)  
receiving contract data from one of said suppliers, said contract data including entitlement information for said buyer in relation to a product; and wherein the step of providing said buyer with access includes filtering said aggregated catalog based upon said entitlement information.

(Claim 5)  
receiving a buyer request for said product; and wherein said step of filtering includes identifying hosted supplier stores offering said product, identifying eligible contracts within said identified hosted supplier stores, retrieving entitlement information from said eligible contracts, and

Art Unit: 3625

applying said retrieved entitlement information, wherein said entitlement information includes pricing.

as taught by Flaxer because

(a) the incorporation of such features is no more than the predictable use of prior art elements according to their established function; further

(b) it was well within the capabilities of one of ordinary skill in the art at the time of Appellant's invention to use known techniques to improve similar devices, methods and products; further

(c) it was well within the capabilities of one of ordinary skill in the art at the time of Appellant's invention to apply a known technique to a known device, method and product ready for improvement to yield predictable results.

See KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

Claims 10-11, 16-17 and 20 are rejected under the same rationale set forth above. The combination of Haynes and Flaxer discloses systems and mediums containing instructions with limitations similar to those cited in the rejection of claims 4-5.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/  
James Zurita  
Primary Examiner  
05/11/2011